1950. File No. C Motor Spirit/50

Legal Deptt

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Subject:— Opinions under the Motor spirit Rationing order 1941

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File No.

Gen. 194 e.

541-H.

CONTENTS.

Legal Department File No. G. Motor Spirit /40

Sr. No.	R.T./	G.No.	Subject	Pages
			Opinions under the Motor Spirit Rationing order 1941.	
		6982/22-8-40	Questions.- 1)Whether having over of petrol coupons or their acceptance at a time other than the time of supply of motor spirit is permissible under cl.7 for any of the other. 2)Whether M/s Khar and Co. have or have not committed a breach of cl. 27 of the order.	1-12

M.R.D.
11-6-96
C.4

4/11/1916

Office of the R.L.A.

The first question raised for the R.L.A.'s consideration is: whether the handing over of petrol coupons or their acceptance at a time other than the time of supply of motor spirit is permissible under clause 27 or any of the provisions of the Motor Spirit Rationing Order.

2. The relevant provisions of the Motor Spirit Rationing Order, 1941 are, clauses 5,12,27,27(a),28 and 28(b). Clause 5 provides that "motor spirit required for any vehicle not covered by clause 3 or clause 4 shall be furnished or acquired only against the surrender, to a supplier at the time of supply of valid Ordinary Coupons or valid Supplementary Coupons and only in accordance with any conditions or instructions appearing on or attached to such coupons". Clause 12 gives the power to the Area Rationing Authority when issuing coupons to attach conditions or instructions thereto. Clause 27 reads as follows:- "Receipts and Coupons to be surrendered only at the time of supply of Motor Spirit: No persons shall surrender to a supplier and no supplier shall accept, special receipts or coupons at a time other than the time at which the supply of Motor Spirit authorised by the special receipts or coupons or acknowledged by the receipts is furnished: Provided that a Provincial Rationing Authority if he is satisfied that conditions justifying the surrender of special receipts at any other time exist may permit surrender at such other time and on such conditions as he thinks fits." Clause 27(a) provides that "when motor spirit is furnished against the surrender of one or more coupons the supplier shall immediately endorse or cause to be endorsed on each coupon so surrendered the registration or other identifying mark of the vehicle to which motor spirit is furnished." Calues 28(b) is to the effect that no person shall use or permit the use of coupons "save in accordance with any conditions or instructions

appearing on or attached to the coupons or otherwise communicated in writing to the person to whom the coupons were issued." To complete the statement of law on the subject it is necessary to add that every coupons bear the following printed instructions.:-

"(1) The book must be produced whenever motor spirit is purchased and the coupons must be detached only at the time of purchase, the particulars to be filled in thereon being completed by the dealer or supplier.

(2) Motor sprit must only be applied at the time of its purchase and against the surrender at the time of coupons which are then valid."

In addition, in pursuance of the powers given to him under clause 12 of the Order quoted above, the Area Rationing Authority has affixed a condition in rubber stamp which reads as follows:-

"Every coupon in this Book shall be legibly signed on the left thumb impression taken on the reverse by the person to whom this book it issued or other person authorised by him before delivery to the dealer for issue of petrol."

The contention raised by Messrs. Kher & Co. for which they seek support from the judgment recorded by the Presidency Magistrate Mr.Barrot is that "under the provisions of the Motor Spirit Rationing Order the deposit of coupons as distinguished from surrender is not prohibited, that is, in other words it is permissible for the applier to accept and for the holder of the coupons to deliver the coupons whether unsigned or even signed, before the petrol is actually drawn.

3. The word "surrender" has not been defined in the Order. It is not a term of art, and no special or technical significance attaches to that word as used in in the Motor Spirit Rationing Order. To "surrender" is to give up something out of one's own possession or power into that of another; the element of the other persons having a claim to the thing or the

H.R.D.
8-6-56
Cal.

relinquishing of possession being in his ~~favour~~ favour of for his sake is generally present in a surrender , and to that extent its connotation is different from that of the word "deliver". However, in interpreting clause 27 undue importance cannot be attached to this connotation. The provisions of the Order have to be construed as a whole, regard also being had to the instructions and conditions which are themselves statutory. To secure for each motorist a limited amount of petrol is not the only object of the Motor Spirit Rationing Order. Its objects is primarily to conserve the supplies of petrol and also to that end to prevent blackmarketing in petrol. The provisions must be construed consistently with this object unless the language leaves no room for ambiguity. At the same time it is a well recognised common of construction that a criminal statute must be construed strictly in favour of the object. Even following that common the only consistent interpretation which we can put upon the various provisions cited before — which it is our duty to reconcile —is that a petrol coupon is not to be delivered to a supplier and the supplier is not to accept that coupon except at the time when petrol is actually issued. The proviso to clause 27 must be given due weight and it underlines the intention of the main provison that the coupons are to be handed over only at the time the petrol is furnished; if the word "surrender" were to be construed in the sense of "surrender against supply", the proviso would be rendered meaningless. Moreover clause 27 has to be supplemented by the conditions and instructions issued and attached under clause 5 and clause 12. That is emphasised again by clause 26(b). The conditions which have been already quoted leave no

room for doubt in the matter. The coppon is not even to be detached from the book excepting at the time of purchase/ The signature or thumb imporession is to be made before delivery to the dealer for the issue of petrol meaning thereby that the signature is not to be made except at the time when petrol is actually drawn. The learned Presidency Magistrate paid no heed to the provise nor to these conditions. They have not even been citied in his judgement. Besides the case which he cited was one whmere in coppons were not signed and the Magistrate admits that signing would be tantamount to surrdener even in the sense that there was a transfer without the holder keeping any rights therein. On the whole, I am not inclined to endorse the narrow construction sought to be put on the word "surrender", and furthermore to construe the word "accept" in a special and restrictive sense on the ground of its association with the word "Surrender." In my opinion, therefore, it will be a clear contravention of cluase 27 of the Motor Spirit Rationing Order read with clauses 5,12,and 23 to deposit a coupon with a dealer after signing it at any time other than the actual time when the petrol is issued. Depositing a coupon without signing would also be a contravention of the Order. For the supplier to accept the deposit of either kind of coupons would also be contravention of clause 27 read with clause ,~~5~~-5,12 and 23. It is obvious that either practice would facilitate black-marketing. On the other hand if any inconvenience is felt by the dealer dealer or by the holder of the coupon that is a matter for amending the law.

4. On the second question referred to the R.L.A.. it is pertinent to point out that the coupons which were were found with Messrs. Ebar &Co., were all deposited with them accompained by letters of the depositors prior to the issues of the notifica

thion or more,

prior to the issue of the notification or more correctly the press-note in December 1949. The facts are that, as a result of the interview with the Provincial Rationing Authority, the Petrol Dealers' Association, Bombay, issued a circular letter to all its members wherein it was stated that "a client may by a letter in writing deposit his coupons with a dealer. Coupons so deposited many be kept on the premises in a separate drawer under look and key". It seems that thereafter the matter was referred to Government and the Secretary ,M.D. remarked that "the arrangement tentatively made is open to grave abuse and should be stopped; that our expreience of prohibition and rationing is clear evidence that permission to deposit consumer's permit with dealer invariably leads to malpractices and black-marketing". Accordingly, letters were addressed to the Hon. Secretary of the Petrol Dealers' Association, and to the Commissioner of Police, Bombay, in July and August 1948, withdrawing the particular concession and instructing them to serve notices on all the dealers in their jurisdication in this connection. I have discussed the case with Captain Gokhale and I am given to understand that there is no evidence to show that the withdrawal of the concession was communicated to Dealers. The dealers were not directly addressed in the matter. Messrs. Kher &Co. maintain that as soon as they learnt that the permission to deposit coupons had been withdrawn they immediately discontinuted accepting such deposit, and Captain Gokhale admitted that all the copupons found with Messrs. Kher & Co. were deposited with them prior to December 1949. It

appears

appears that Messrs. Khar & Company's is not the only case, and that there are 51 such cases with the Area Rationing Authority. Having regard to these antecedent and other facts I am of opinion that a prosecution in this case would be inexpedient and is not likely to succeed.

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Remembrancer of Legal Affairs/

M.R.D.:
9-6-50
C.4

U.R.to H.D. No. 6922, dated the 22nd May 1950.